

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

MICHAEL ALLEN

PLAINTIFF

v.

No. 4:04CV384-D-A

DR. JOHN BEARRY, ET AL.

DEFENDANTS

MEMORANDUM OPINION

The court takes up, *sua sponte*, the dismissal of this *pro se* prisoner case challenging conditions of confinement under 42 U.S.C. § 1983. For the purposes of the Prison Litigation Reform Act, the plaintiff was incarcerated at the time the instant case was filed. The plaintiff claims that he was charged twice for the same visit to the prison infirmary. For the reasons set forth below, the instant case shall be dismissed with prejudice.

Facts – As Alleged

The plaintiff alleges that he was charged the \$3.00 infirmary fee twice for the same visit to the infirmary. The plaintiff filled out a sick call request January 19, 2004, and a second request on January 26, 2004. The plaintiff went to the infirmary on January 27, 2004, and received treatment. He was called to the infirmary again on January 30, 2004; he informed the doctor on duty that he had already been examined, but did not receive his medication. He was charged for both visits.

Discussion

The plaintiff's complaint fails on its face. The plaintiff filled out two sick call requests. He saw a doctor twice – one visit per request. He was charged a fee for each visit. The plaintiff apparently feels that the defendants should have aggregated his sick call slips and seen him just

one time. While that might have been more efficient, it certainly was not required. For these reasons, the instant case shall be dismissed with prejudice for failure to state a claim upon which relief could be granted, counting as a “strike” under 28 U.S.C. §§ 1915 (e)(2)(B)(i) and 1915(g).

A final judgment consistent with this memorandum opinion shall issue today.

SO ORDERED, this the 13th day of June, 2005.

/s/ Glen H. Davidson
CHIEF JUDGE